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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/783,507 | 02/20/2004 | Yuhong Wang | 71138.010200A | 7585 |
| 34018 | 7590 | 03/25/2005 | EXAMINER | |
| GREENBERG TRAUIG, LLP 77 WEST WACKER DRIVE SUITE 2500 CHICAGO, IL 60601-1732 | | | JOHNSON, JERROLD D | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3728 | |

DATE MAILED: 03/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|-------------------------------|---|--|
| Office Action Summary | Application No. 10/783,507 | Applicant(s) WANG ET AL. 67 | |
| | Examiner Jerrold Johnson | Art Unit 3728 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 February 2005.
 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 1-11 and 14-24 is/are rejected.
 7) ☒ Claim(s) 12, 13, 25 and 26 is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>2/3/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the structure as defined in claim 12 and 25 of a outer layer having a width less than the inner layer must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1,4,5,14,17 and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 14 recite "at least indirectly", and claims 4,5,17 and 18 are drawn to monolithically formed layers which are "directly" joined. Directly joined layers can not be indirectly joined, as would be necessary from the claim language. It is submitted that alternative claim language in claims 1 and 14 such as "either directly or indirectly" would better serve the purposes of claiming both embodiments in these claims, and would not render the claims confusing, as is currently the situation.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1,3,5,6,9,11,14,16,18,19,22,and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Hill US 5,024,536.

In Fig. 1.1 Hill discloses a package of a plurality of like articles, having a longitudinal axis and a transverse axis, the package comprising:

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first and second inner layers, each having a width, extending along the transverse axis, and a height, extending along the longitudinal axis,

the first and second inner layers being joined to one another along at least three longitudinally extending closure lines (9a, and 15a) to form at least two inner chambers, for receiving articles to be packaged, the at least two inner chambers being bounded by the at least three closure lines and the first and second inner layers,

the first and second inner layers being joined at least along respective bottom edge regions thereof (at seam 8);

first and second outer layers, each having a width, extending along the transverse axis, and a height extending along the longitudinal axis,

the first and second outer layers being disposed adjacent the first and second inner layers, respectively,

the first and second outer layers being joined to their respective adjacent

first and second inner layers along at least two longitudinally extending closure lines to form at least one outer chamber,

the first and second outer layers being joined, at least indirectly, at least along respective bottom edge regions thereof;

a plurality of articles disposed in at least one of the at least two inner chambers,
and

a number of articles disposed in an other one of the at least two inner chambers, less than the plurality of articles disposed in the at least one of the at least two inner chambers.

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Hill does not explicitly show the articles in the drawings, but discloses in col. 1 lines 45-50 various combinations of articles for which the bag inner compartments may be used. The combinations of articles presented, in particular fish hooks and lures, would necessarily result in different numbers of articles in one inner chamber than another chamber. Accordingly, this feature is inherently disclosed in the Hill patent.

Re claims 3 and 5, Hill further discloses (most easily deciphered in claim 1) the separate sheets.

Re claim 6, Hill discloses thermoplastic materials, which would necessarily be one of transparent, translucent or opaque.

Re claim 9, Hill discloses closure line 11.

Re claim 11, Hill discloses the bottom edge regions of the first and second inner layers are disposed proximate the bottom edge regions of the first and second outer layers.

Re claims 14, 16, 18, 19, 22, and 24, these method claims recite the inherent method of forming the package as described in the rejected product claims 1, 3, 5, 6, 9, and 11, and, accordingly, are also anticipated by Hill.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 2,4,7,10,15,17, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hill in view of Nakamura US 4,744,673.

Re claims 2,4,7,15,17 and 20 Hill does not disclose the first and second inner layers or first and second outer layers being contiguously, monolithically formed together along their respective bottom edge regions.

Nakamura discloses the first and second inner layers or first and second outer layers being contiguously, monolithically formed together along their respective bottom edge regions.

It would have been obvious to one of ordinary skill in the art to modify the package of Hill formed from four separate sheets, to the construction as taught by Nakamura formed from two folded sheets, as a resulting decrease in the cutting processes necessary to manufacture the package would result.

Re claims 10 and 23, Hill does not disclose the top edge regions of the first and second inner layers are longitudinally spaced apart from top edge regions of the first and second outer layers.

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Nakamura discloses the top edge regions of the first and second inner layers are longitudinally spaced apart from top edge regions of the first and second outer layers.

It would have been obvious to one of ordinary skill in the art to modify the package of Hill formed from four separate sheets all of the same length, to the construction as taught by Nakamura formed from two folded sheets with the outer sheet being shorter than the inner sheet resulting in outer chambers of a shorter length, as such a configuration would provide a small outer chambers for small items like business cards and the pocket would not obscure the contents of the inner chamber.

Re claims 7 and 20 Hill does not disclose indicia in the outer chamber.

Nakamura discloses indicia such as business cards in the outer chambers.

It would have been obvious to one of ordinary skill in the art to modify the package of Hill with the indicia as taught by Nakamura so that a package can be identified as to its owner or provider.

Allowable Subject Matter

Claims 12,13,25, and 26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Siegelman discloses inner and outer folded layers with seams.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerrold Johnson whose telephone number is 571-272-7141. The examiner can normally be reached on 9:30 to 6:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JDJ



Mickey Yu
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